



Phillips Lytle LLP

Via ECF

Honorable John G. Koeltl
United States District Court
Southern District of New York
50 Pearl St., Courtroom 14A
New York, NY 10007-1312

August 24, 2018

Re: Eastern Profit Corporation Limited v. Strategic Vision US, LLC,
Civil Action No. 18-cv-2185

Dear Judge Koeltl:

We represent defendant, Strategic Vision US, LLC ("Strategic Vision"), in the above-referenced matter. Pursuant to Rule 2(B) of Your Honor's Individual Rules of Practice, Strategic Vision requests a pre-motion conference to discuss its proposed motion for leave to file an amended answer and counterclaims. As explained below, Strategic Vision's proposed amended answer and counterclaims would add Guo Wengui a/k/a Miles Kwok ("Mr. Guo"), believed to be the principal of plaintiff Eastern Profit Corporation Limited ("Plaintiff"), as a counterclaim defendant.

I. Factual and Procedural Background

Plaintiff commenced this action, filed entirely under seal, on or about March 12, 2018. Strategic Vision filed an answer and counterclaim on April 3, 2018, asserting one counterclaim for breach of contract relating to the outstanding amounts owed by Plaintiff under the parties' agreement. Plaintiff filed its answer to the counterclaim on or about May 4, 2018.

Strategic Vision also filed a motion to unseal the case on April 3, 2018. The parties were attempting to resolve the motion to unseal through a stipulated protective order. During the course of negotiations on the protective order, Plaintiff retained new counsel on or about May 30, 2018. Then, on July 25, 2018, we received notification that Plaintiff was once again retaining new counsel. The case was unsealed by this Court on August 9, 2018 (ECF No. 15).

On August 7, 2018, counsel appeared for a conference before the Court. At that time, the Court set a scheduling order, which includes August 24, 2018 as the deadline to add parties. On August 20, 2018, we provided Plaintiff's counsel with a copy of the

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proposed amended answer and counterclaims and requested Plaintiff's consent to Strategic Vision's motion to amend. On August 22, 2018, counsel for Plaintiff advised that Plaintiff did not consent to the amended answer and counterclaims.

II. Strategic Vision's Proposed Motion

Rule 15 of the Federal Rules of Civil Procedure provides that leave to amend should be "freely" given "when justice so requires." The rule in the Second Circuit is "to allow a party to amend its pleadings in the absence of a showing by the non-movant of prejudice or bad faith." *Block v. First Blood Assocs.*, 988 F.2d 344, 350 (2d Cir. 1993).

Here, Strategic Vision seeks leave to file an amended answer and counterclaims, which would add Mr. Guo as a counterclaim defendant and assert claims against him, for breach of contract, promissory estoppel and tortious interference. A copy of the proposed answer and counterclaims is attached as Exhibit A. The case is in its early stage (discovery has not yet begun) and Plaintiff's legal representation appears to have just recently been sorted out. Plaintiff will not be prejudiced by the addition of Mr. Guo at this point. Accordingly, Strategic Vision should be granted leave to file an amended answer and counterclaims.

In light of the above, Strategic Vision respectfully requests the opportunity to discuss its proposed motion to amend with the Court at a pre-motion conference.

Respectfully,

Phillips Lytle LLP

By *David McNamara*

David J. McNamara

(LJR)

cc: Counsel of Record (by ECF)

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